

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUAN A. TINAJERA RUVALCABA,

Plaintiff,

vs.

MATT BROWN; MARK HOLTHAUS;
CITY OF LAKEWOOD; and JOHN
DOES 1 through 10,

Defendants.

NO.

COMPLAINT FOR DAMAGES UNDER
42 U.S.C. § 1983; AND WASHINGTON
LAW

JURY DEMAND

COMES NOW the Plaintiff, by and through his attorney of record, Glenn K. Carpenter, Jr. of the Law Office of Glenn K. Carpenter, Jr., P.S., and by way of claim alleges upon personal knowledge as to himself and his own actions, and upon information and belief upon all other matters, as follows:

INTRODUCTION

1. This is a civil action seeking damages against the above-named defendants. The civil claims include offenses committed by police officers of the City of

COMPLAINT AND
DEMAND FOR JURY

1 Lakewood acting under color of law and within the scope of their employment resulting
2 in a deprivation of rights secured by the Constitution and laws of the United States of
3 America, and related State causes of action.
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5 JURISDICTION AND VENUE
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7 2. This Court has personal and subject matter jurisdiction over plaintiff's
8 civil rights claims under Title 42, United States Code, § 1983, and Title 28, United States
9 Code, §§ 1331 and 1343.
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11 3. This Court has pendent jurisdiction over plaintiff's state law claims and
12 over defendants as to said claims, pursuant to Title 28, United States Code, § 1367
13 (Judicial Improvements Act of 1990), Public Law No. 101-650, 104 Stat. 5089 (1990).
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16 4. The acts and omissions complained of herein occurred in Pierce County,
17 Washington and at least some of the defendants are believed to be residents and citizens
18 of Pierce County, Washington.
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20 5. Plaintiff, Juan A. Tinajera Ruvalcaba, is a resident of Pierce County,
21 Washington.
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23 6. Venue in this Court is proper pursuant to Title 28, United States Code, §
24 1391.
25

26 PARTIES
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28 7. Plaintiff, Juan A. Tinajera Ruvalcaba, is a resident of Pierce County, State
29 of Washington.
30

31 8. At all times material to this complaint, defendant Matt Brown was a police
32 sergeant employed by defendant City of Lakewood. At all times material to this
33 complaint, defendant Matt Brown was an agent and employee of defendant City of
34

1 Lakewood, and was acting within the scope of his employment with the City of
2 Lakewood and under color of state law.

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4 9. Defendant Matt Brown is sued in his individual capacity and in his official
5 capacity as an agent and employee of the City of Lakewood.

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7 10. At all times material to this complaint, defendant Mark Holthaus was a
8 police officer employed by defendant City of Lakewood. At all times material to this
9 complaint, defendant Mark Holthaus was an agent and employee of defendant City of
10 Lakewood, and was acting within the scope of his employment with the City of
11 Lakewood and under color of state law.

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14 11. Defendant Mark Holthaus is sued in his individual capacity and in his
15 official capacity as an agent and employee of the City of Lakewood.

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17 12. Defendant City of Lakewood is a municipal corporation organized under
18 the laws of the State of Washington. Defendant City of Lakewood is sued directly under
19 Title 42, United States Code § 1983 and under the doctrine of respondeat superior. The
20 civil rights violations delineated herein were proximately caused by its customs, policies
21 and usages.

22
23
24 13. Defendant City of Lakewood includes as one of its agencies, the
25 Lakewood Police Department.

26
27 14. John Does 1 through 10, are entities and persons who were involved with
28 the unconstitutional, reckless, unreasonable and negligent acts described herein. Plaintiff
29 does not currently know these entities and persons. Upon discovery of their identities,
30 Plaintiff reserves the right to add them as Defendants in this cause of action.
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FACTUAL ALLEGATIONS

(Many of the actions described below were captured by video, which is hereby incorporated into this Complaint)

15. On September 6th, 2014, at approximately 9:16 PM, Lakewood Police Officer Mark Holthaus learned that a vehicle involved in a shooting at 74th Street S. and S. Tacoma Way had fled southbound on S. Tacoma Way into the City of Lakewood.

16. Officer Holthaus began searching for the vehicle. Approximately 11 minutes later and approximately $\frac{3}{4}$ of a mile away, Officer Holthaus observed a vehicle allegedly similar to the description of the vehicle that had fled into Lakewood

17. The vehicle was being driven by the plaintiff Juan Tinajera Ruvalcaba. He was heading home after finishing work and getting something to eat.

18. Mr. Tinajera Ruvalcaba had turned off of 82nd St. S. and was proceeding southbound on S. Tacoma Way in a normal manner.

19. But because the vehicle bore a resemblance to the vehicle being looked for, Officer Holthaus decided this must be the searched for vehicle and that he would do a high-risk felony stop. He requested that other police officers rush to his aid.

20. Officer Holthaus followed Mr. Tinajera a few blocks to the Legacy Park Apartments where Mr. Tinajera lived.

21. Mr. Tinajera at all times drove calmly and did not commit any traffic violations while he was being followed.

22. Officer Holthaus and other officers used their vehicles to block Mr. Tinajera's vehicle and ordered Mr. Tinajera to exit his vehicle at gunpoint.

23. Mr. Tinajera complied. He exited his vehicle and held his hands up and open while facing the many officers who had arrived.

1 24. Mr. Tinajera Ruvalcaba was ordered to turn around and get on the ground
2 but was physically unable to turn around as he had injured his lower leg earlier that day.
3
4 He attempted to explain his injury to the officers stating his ankle was hurt and that he
5 was unable to follow the officers' commands.
6

7 25. Sergeant Matt Brown arrived on the scene while Mr. Tinajera Ruvalcaba
8 was being held at gunpoint and took charge of the situation. He instructed the officers to
9 move forward towards Mr. Tinajera Ruvalcaba and that he would use a Taser if Mr.
10 Tinajera Ruvalcaba remained non-compliant.
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12

13 26. Sergeant Brown then led several officers to Mr. Tinajera Ruvalcaba. At
14 very close range (within a few feet) Sergeant Brown deployed his Taser device, which
15 struck with Mr. Tinajera Ruvalcaba.
16

17 27. Sergeant Brown then immediately applied a Thai kick to Mr. Tinajera
18 Ruvalcaba's leg, knocking Mr. Tinajera Ruvalcaba to the ground where he was jumped on
19 by several officers and he was hand cuffed and detained.
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22 28. Mr. Tinajera Ruvalcaba stood with his arms and hands extended straight
23 above his head and made no movements as he was approached by the officers and
24 tasered.
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27 29. At this same time, DuPont police discovered the actual vehicle that was
28 involved in the shooting and arrested the responsible individual.
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30 30. It is unknown at this time when the Lakewood police officers learned of
31 the actual arrest of the responsible individual.
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1 31. Mr. Tinajera Ruvalcaba was arrested for obstruction of justice and take to
2 jail but the jail did not accept him because he had been injured and was in need of
3 medical attention.
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5 32. Mr. Tinajera Ruvalcaba was taken to the hospital and found to have
6 broken bones in his lower left leg among other injuries.
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8 FIRST CAUSE OF ACTION
9 (Federal Civil Rights Violation Under 42 U.S.C § 1983)
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11 33. By virtue of the facts set forth above, the Defendants are liable for
12 compensatory and punitive damages for deprivation of civil rights of Juan A. Tinajera
13 Ruvalcaba guaranteed by the Fourth Amendment to the Constitution of the United States
14 and 42 U.S.C. § 1983, to be free from unreasonable seizures of his person. They did this
15 by performing the seizure in an unreasonable, dangerous and violent manner, and tasing
16 and knocking him to the ground without legal cause or justification.
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19 34. As a proximate result of the acts and omissions of defendants and
20 deprivation of his Fourth Amendment rights, Juan Tinajera Ruvalcaba suffered personal
21 injuries including, but not limited to loss of liberty, physical injuries, pain and suffering,
22 grief, fear and terror, mental anguish, emotional distress, loss of earnings, and other
23 consequential damages.
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27 SECOND CAUSE OF ACTION
28 (State Law Claim)
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30 35. By virtue of the facts set forth above, all defendants are liable to the
31 Plaintiff for compensatory damages for the tort of outrage.
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THIRD CASUE OF ACTION

COMPLAINT
DEMAND FOR JURY

(State Law Claim)

36. By virtue of the facts set forth above, all defendants are liable to the Plaintiff for compensatory damages for negligence causing his injuries.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for relief as follow:

37. Compensatory Damages;

38. Punitive Damages from the individual defendants on Plaintiff's claims under 42 United States Code § 1983;

39. Costs, including reasonable attorneys' fees, under 42 United States Code § 1988 and to the extent otherwise permitted by law; and

40. Such relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff demands trial by a jury of six (6) in this matter.

DATED this the 4th day of September 2017.

Respectfully submitted,

LAW OFFICE OF
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COMPLAINT
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